

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re:

VIRGINIA TRUE CORPORATION,

Debtor.

Chapter 11

Case No.: 19-42769 (NHL)

**DECLARATION OF CREDITORS THE VIRGINIA STATE WATER CONTROL
BOARD and THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY IN
SUPPORT OF MOTION TO CHANGE VENUE TO THE UNITED STATES
BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF VIRGINIA**

I, David K. Paylor, declare as follows:

1. I am over 18 years of age. This declaration is based upon my own personal knowledge.

2. I am the Director of the Virginia Department of Environmental Quality and the
Executive Director of the Virginia State Water Control Board.

3. The Virginia Department of Environmental Quality and the Virginia State Water Control
Board are executive agencies of the Commonwealth of Virginia.

4. It is my duty to exercise general supervision and control over the quality and
management of all state waters and to administer and enforce the State Water Control Law, Va. Code §
62.1-44.2, *et seq.*, and all certificates, standards, policies, rules, regulations, rulings, and special orders
promulgated by the Virginia State Water Control Board.

5. I am submitting this declaration on behalf of a creditor in the above-referenced chapter
11 bankruptcy case (the "Bankruptcy Case") of Virginia True Corporation ("Virginia True Corp.")
because (*select one below*):

☐ I am personally owed money by the Virginia True Corp.; or

☒ The VIRGINIA STATE WATER CONTROL BOARD and the VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY, executive agencies of the Commonwealth of

Virginia, which I am affiliated, are owed money by Virginia True Corp.

6. The amount of money either owed to me personally or to the Commonwealth of Virginia (as the case may be) by Virginia True Corp. is \$ (unliquidated civil penalty for alleged violation of the Commonwealth of Virginia's environmental laws and regulations in addition to the cost of injunctive relief necessary to come into compliance with the Commonwealth of Virginia's environmental laws and regulations).

7. The reason Virginia True Corp. owes me money or owes money to the Commonwealth of Virginia (as the case may be) is because *[explain]*: In 2017, Virginia True Corp. engaged in unlawful and unpermitted land-disturbing activities in Richmond County, Virginia in violation of the State Water Control Law, Va. Code § 62.1-44.2, *et seq.* In 2018, the Office of the Attorney General of Virginia filed an action on behalf of the Virginia Department of Environmental Quality and the Virginia State Water Control Board to enforce applicable provisions of the State Water Control Law, Va. Code § 62.1-44.2, *et seq.* The issues raised in the action are unresolved.

8. My address or the address of my business (as the case may be) is: Virginia Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, Virginia 23219.

9. At all times relevant to this matter, the alleged unlawful and unpermitted land-disturbing activities were performed in connection with a proposed golf course and real estate development project located in and about Fones Cliffs, which is a four-mile cliff formation along the eastern side of the Rappahannock River in Richmond County, Virginia – midway between the Route 301 bridge in Port Royal and the Route 360 bridge in Tappahannock.

10. Virginia True Corp. held itself out to me or my company (as the case may be) as a local Virginia company based in Virginia.

11. I respectfully request that the United States Bankruptcy Court for the Eastern District of New York order the Bankruptcy Case of Virginia True Corp. moved to the United States Bankruptcy Court for the Eastern District of Virginia (Richmond Division) (the "Virginia Bankruptcy Court").

12. The Virginia Bankruptcy Court is located at 701 East Broad Street, Suite 1400, Richmond, Virginia 23219.

13. The location of the Virginia Bankruptcy Court is convenient for me or the Commonwealth of Virginia (as the case may be).

14. The location of the Virginia Bankruptcy Court is approximately 0.25 miles from where I maintain an office or business premises.

15. Participating in the Bankruptcy Case if it is moved to the Virginia Bankruptcy Court will not cause significant disruption in my business or personal affairs or cause me to incur undue expense (such as long distance travel and overnight lodging).

16. If the Bankruptcy Case is moved to the Virginia Bankruptcy Court, I anticipate I will be able to personally attend significant events or hearings regarding the Bankruptcy Case.

17. The current location of the Bankruptcy Case in the United States Bankruptcy Court for the Eastern District of New York makes it a hardship for me or my business to participate in the case.

18. Travel to New York to participate in any hearings or meetings will cause me or my business to lose considerable time and to incur considerable expense.

19. In addition, either I personally or my business has local attorney relationships in Richmond County, Virginia. Either I personally or my business would like to utilize our existing local attorneys in the Bankruptcy Case, currently the Office of the Attorney General of Virginia located at 202 N. 9th Street, Richmond, Virginia 23219.

20. In addition, attorney rates in New York are considerably higher than those in Richmond County, Virginia, so keeping the Bankruptcy Case in New York will further increase the financial

hardship caused to me or the Commonwealth of Virginia by the Bankruptcy Case remaining in New York.

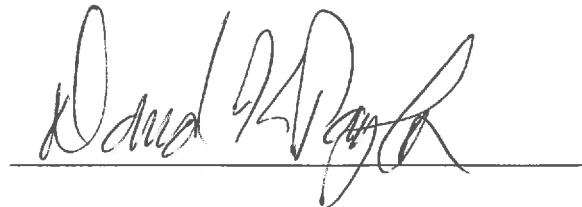
21. Accordingly, for the reasons set forth in this declaration it is respectfully requested that the United States Bankruptcy Court for the Eastern District of New York order the Bankruptcy Court transferred to the Virginia Bankruptcy Court.

I HAVE READ THE ABOVE DECLARATION. I AGREE WITH ALL OF THE STATEMENTS CONTAINED ABOVE. IF I DO NOT AGREE WITH ANY STATEMENT CONTAINED ABOVE I HAVE MODIFIED THE DECLARATION AND INITIALED NEXT TO MY MODIFICATIONS.

I declare under penalty of perjury that the foregoing is true and correct.

Signed on June 18, 2019 at Richmond, Virginia

By:

A handwritten signature in black ink, appearing to read "David K. Paylor", written over a horizontal line.

David K. Paylor, Director
Virginia Department of Environmental Quality
1111 East Main Street, Suite 1400
Richmond, Virginia 23219

[Pursuant to 28 U.S.C. § 1746 an unsworn declaration
under penalty of perjury may be used in lieu of a sworn affidavit.]